

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

COBRA JADE SPOTTED WOLF,

Defendant.

CR-15-19-BMM

ORDER

United States Magistrate Judge John Johnston entered Findings and Recommendations in this matter on August 15, 2017. (Doc. 86.) Spotted Wolf filed objections on August 29, 2017. (Doc. 87.) The Court reviews de novo findings and recommendations to which a party objects. 28 U.S.C. § 636(b)(1).

Judge Johnston conducted a revocation hearing on July 12, 2017. (Doc. 86 at 2.) The United States accused Mr. Spotted Wolf of violating his conditions of supervised release by (1) submitting a urine sample that tested positive for methamphetamine, and (2) absconding from the Great Falls Prerelease Center. (Doc. 86 at 1.) Spotted Wolf admitted allegation 2, but denied allegation 1. (Doc. 86 at 3.) The United States agreed to dismiss allegation 1 in exchange for Mr. Spotted Wolf agreeing to a sentence of five months in custody, with nineteen

months supervised release to follow. (Doc. 86 at 3.) Spotted Wolf did stipulate to the recommended sentence. (Doc. 87 at 3.)

Spotted Wolf now opposes Judge Johnston's Findings and Recommendations. He argues that the recommended sentence is not "necessary to protect the public, to afford adequate deterrence, or to insure that he is provided needed psychological and correctional treatment," three of seven factors the Court is required to consider pursuant to 18 U.S.C. § 3553(a). (Doc. 87 at 3.) Spotted Wolf further argues that his motivations for absconding from the Prerelease Center merit a sentence of time served and five months home detention. (Doc. 87 at 3-4.)

The Court has considered the 18 U.S.C. § 3553(a) factors and agrees with Judge Johnston's Findings and Recommendations. Spotted Wolf's violations of his conditions represent a serious breach of the Court's trust. Under the Conditions of Mr. Spotted Wolf's supervised release, he was to remain in the Prerelease Center for 180 days. (Doc. 77 at 1.) He entered the prerelease center on May 3, 2017 and remained just 56 days before absconding on June 28, 2017. (Doc. 78 at 1-2.)

Although he now alleges he "left out of concern for his eleven year old child and was absent for less than twelve hours," the Petition for Warrant for Offender Under Supervision recites that he "did not return" to the Prerelease Center. (Doc. 78 at 2.) Whatever his motivations, Spotted Wolf's conduct was serious enough to merit a

termination letter deeming him ineligible to return to the Great Falls Prerelease Center. (Doc. 78 at 2.)

This violation proves serious and warrants revocation of Spotted Wolf's supervised release. Judge Johnston has recommended that the Court revoke Spotted Wolf's supervised release and commit Spotted Wolf to the custody of the Bureau of Prisons for five months. (Doc. 86 at 4.) Judge Johnston further has recommended that 19 months of supervised release follow his custody period. (Doc. 86 at 4.) The sentence recommended by Judge Johnston is sufficient, but not greater than necessary.

IT IS ORDERED that Judge Johnston's Findings and Recommendations (Doc. 86) is ADOPTED IN FULL.

IT IS FURTHER ORDERED that Defendant Cobra Jade Spotted Wolf be sentenced to custody for five months, followed by 19 months supervised release.

DATED this 30th day of August, 2017.



Brian Morris
United States District Court Judge